IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 31597 of 2007(J)

PETITIONER:

MARUTHI ENTERPRISES, 'SIVAM',
WEST LAYAM ROAD, THRIPUNITHURA,
A PARTNERSHIP FIRM REPRESENTED BY ITS
PARTNER V.VENKATESWARAN.

BY ADV. SRI.ABRAHAM VAKKANAL
SRI.PAUL ABRAHAM VAKKANAL
SRI.BIJIMON C.CHERIAN
SRI.ARUL KUMAR.P
SRI.LOWEL CHERIAN

RESPONDENTS:

---

1. THE TAHSILDAR, KANAYANNUR TALUK,
ERNAKULAM.

2. THE VILLAGE OFFICER, NADAMA.

3. THE DISTRICT COLLECTOR, COLLECTORATE,
ERNAKULAM.

4. COMMISSIONER OF LAND REVENUE,
SECRETARIAT, TRIVANDRUM.

BY ADV. SHRI.K.P.PRADEEP, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

WP(C) No. 31597 of 2007

Dated, this the 24th day of October, 2007

J U D G M E N T

Ext.P4 is an order of assessment, issued under the Kerala Building Tax Act, treating 10 flats as one unit and levying building tax on the petitioner, who has constructed the building. It is the petitioner's contention that the flats belong to individual owners, whose names have been furnished in Ext.P3 series in this writ petition. It is also its contention that individual agreements have been entered into with the respective owners and it is by making use of the contributions made by these owners that the construction was completed. The substance of the contention is that the individual owners of the apartments should be assessed separately without levying the tax entirely on the petitioner. Petitioner submits that soon after the assessment was completed, it has already paid the first instalment and that has been acknowledged as per Ext.P6(a).

2. Question similar to this, has been considered in several cases and in the case of **Bavasons Constructions Pvt. Ltd. Vs. State of Kerala**, reported in 2007 (3) KLT 101, this Court has set aside the assessment similar to Ext.P4 with a direction to the

Assessing Officer to conduct a fresh enquiry with opportunity to the petitioner therein. On facts, I am satisfied that the petitioner herein is also entitled to similar reliefs.

3. Accordingly, I quash Ext.P4 and direct that the 1st respondent shall conduct a fresh enquiry with notice to the petitioner, who will have the freedom to produce the agreements, its account books and other evidences, on the basis of which, it can prove its contention that it is the individual owners of the flats, who are to be made liable for the building tax. With that opportunity, the 1st respondent shall complete enquiry and pass revised orders of assessment of building tax. Consequently, Ext.P7 revenue recovery proceedings also shall stand quashed. Petitioner shall produce a copy of this judgment before the 1st respondent for compliance and he will conclude the enquiry within a period of two months from the date of receipt thereof.

This writ petition is disposed of as above.

(ANTONY DOMINIC, JUDGE)

jg